

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



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4.23.03

In Re: the Application of:

DUKE et al.

Serial No.: 09/991,363

Filed: November 15, 2001

Atty. File No.: 3923-3

For: "YEAST-DENDRITIC CELL
VACCINES AND USES THEREOF")

) Group Art Unit: 1648

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) Examiner: Lucas, Z.

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) EXPRESS MAIL: EV227132460US

RESPONSE TO
RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

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This response is filed in response to the Restriction Requirement having a mailing date of December 16, 2002. Enclosed herewith is a Request for a three-month extension of time, and the requisite fee, to extend the time for response from January 16, 2003 to April 16, 2003. No additional fees are believed to be due in connection with this response, but if fees are due, please debit Deposit Account No. 19-1970.

The Examiner has restricted the present application into four groups of claims, as follows: Group I (Claims 1-15) directed to therapeutic compositions; Group II (Claims 16-22) directed to a method of making compositions; Group III (Claims 23-25) directed to a method of eliciting an immune response; and Group IV (Claims 26-28) directed to methods of eliciting an immune response. Applicants provisionally elect with traverse to prosecute Group I (Claims 1-15).

Applicants traverse the restriction between Group I and Groups II and III. The Patent Office may require restriction if two or more "independent and distinct" inventions are claimed in one application. However, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." M.P.E.P. Section 803. With regard to Groups I and II or III, Applicants submit that the method of Group II is a method to produce the composition of Group I, and the method of Group III requires the use of the composition of Group I. Therefore, Applicants

submit that a thorough search for the subject matter of Group I will be sufficient to examine the claims of Group II or Group III. In any event, if the elected claims of Group I are found allowable, Applicants reserve their right to amend the claims of Groups II and/or III to be commensurate in scope with the product claims of Group I, and to request that such amended method claims that depend from or otherwise include all the limitations of the allowable product be rejoined and examined for patentability. In re Brouwer, 37 USPQ2d 1663 (Fed. Cir. 1996); In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995).

Respectfully submitted,

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Date: April 11, 2003